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7 MICRO-TENDER INDUSTRIES, INC.  
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10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
12

13 GLOBAL FOOD INNOVATIONS,  
14 INC., a Delaware Corporation,

15 Plaintiff,

16 vs.

17 WESTERN PROPERTY  
18 MANAGEMENT, LLC, a Nevada  
19 limited liability company; MARC  
20 MIRO, an individual; JACK WISE, an  
21 individual; JEFFREY COVEY, an  
22 individual; GERALD NORMAN, an  
23 individual; JAMES TERAN, an  
24 individual; SOLID GOLD FOODS,  
25 INC., a Delaware corporation;  
26 COMMERCIAL INTERNATIONAL  
27 CORPORATION, a Delaware  
28 corporation; MICRO-TENDER  
INDUSTRIES, INC., a Delaware  
corporation; and DOES 1 through 10,  
inclusive,

Defendants.

Case No: 2:15-cv-00881 FMO (AGRx)

**DECLARATION OF DOUGLAS J.  
ROVENS IN SUPPORT OF  
MICRO-TENDER, INC.'S  
OPPOSITION TO MOTION TO  
DISMISS COUNTERCLAIM**

Date: July 30, 2015  
Time: 10:00 a.m.  
Courtroom: 22 (5th Floor)  
Judge: Hon. Fernando M. Olguin

Complaint Filed: February 6, 2015  
FAC Filed: April 24, 2015  
Trial Date: May 17, 2016

1 I, Douglas J. Rovens, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the Courts of the  
3 State of California, and before this Court, and am counsel for defendant and  
4 counterclaimant Micro-Tender Industries, Inc. ("Micro-Tender") in this action. I  
5 make this declaration in support of Micro-Tender's opposition to the motion to  
6 dismiss Micro-Tender's counterclaim filed by plaintiff and counterdefendant,  
7 Global Food Innovations, Inc. ("GFI"). I make this declaration based on my  
8 personal knowledge, and if called as a witness could and would testify to the  
9 following facts:

10 2. At GFI's counsel's request, I granted two extensions for GFI to respond  
11 to Micro-Tender's Counterclaim. The second extension to which I agreed required  
12 Plaintiff to respond to the Counterclaim by June 22, 2015.

13 3. GFI's response to Micro-Tender's Counterclaim originally was due on  
14 June 8, 2015. Shortly before the responsive pleading was due to be filed, GFI's  
15 counsel at that time, Jessica McElroy, requested an extension within which to file  
16 GFI's responsive pleading. I agreed to an extension until June 18, 2015. During our  
17 telephone conference, I asked Ms. McElroy whether GFI intended to file a motion to  
18 dismiss. Ms. McElroy told me that GFI had not yet made a decision whether it  
19 intended to do so.

20 4. On June 18, 2015, the day GFI's response to Micro-Tender's  
21 Counterclaim was due, GFI's prior counsel, Cheryl Chang, requested another  
22 extension within which to file GFI's responsive pleading. In connection with the  
23 requested extension to respond to Micro-Tender's Counterclaim, Ms. Chang did not  
24 tell me that GFI intended to file a motion to dismiss.

25 5. The first mention by GFI's counsel of a motion to dismiss came in an  
26 email after Ms. Chang already had secured from me a second extension. Ms. Chang  
27 notified me of GFI's intention to file a motion to dismiss in an email sent in the late  
28 afternoon on Thursday, June 18, 2015, when she sent a draft stipulation to extend



**PROOF OF SERVICE*****Global Food Innovations, Inc. v. Western Property Management, LLC, et al.***

USDC, Central District of California, Western Division

Case No. 2:15-cv-00881-FMO-AGR

STATE OF CALIFORNIA )

)

COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1500 Rosecrans Avenue, Ste. 418, Los Angeles, California 90266.

On July 9, 2015, I served the following document(s): **DECLARATION OF DOUGLAS J. ROVENS IN SUPPORT OF MICRO-TENDER, INC.'S OPPOSITION TO MOTION TO DISMISS COUNTERCLAIM** on the interested parties on the attached service list as follows:

**(X) BY U.S. MAIL (indicated parties only):** I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I caused the above-referenced document to be mailed to counsel at the addresses listed above.

**( ) (BY ELECTRONIC MAIL):** I hereby certify that I served the above-described document on the interested parties in this action by attaching an electronic copy of that document to an e-mail addressed to the parties listed herein at their most recent e-mail address of record in this action. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**(X) CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

1 ( ) **BY OVERNIGHT COURIER:** I caused the above-referenced  
2 document(s) to be delivered to an overnight courier service (Federal  
3 Express/California Overnight Courier), for delivery to the above address(es) and  
4 requested the delivery receipt.

5 ( ) **BY FACSIMILE:** I caused the above-referenced documents(s) to be  
6 transmitted to the noted addressee(s) at the fax number as stated.

7 Executed on July 9, 2015 at Los Angeles, California.

8 (X) **FEDERAL:** I declare under penalty of perjury under the laws of the United  
9 States of America that the foregoing is true and correct.

10 /S/ Tammy Cortez

11 Tammy Cortez  
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**SERVICE LIST**

***Global Food Innovations, Inc. v. Western Property Management, LLC, et al.***

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